

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE FLINT WATER CASES

No. 5:16-cv-10444-JEL-MKM
(consolidated)
Hon. Judith E. Levy

**STIPULATED MOTION FOR CLARIFICATION AND PROPOSED
ORDER REGARDING THE COURT'S ORDER REGARDING MATTERS
ADDRESSED DURING THE JULY 15, 2020 VIDEO CONFERENCE**

At the July 15, 2020 Video Conference, the Court placed a 65-day stay on Putative Class Plaintiffs' expert depositions and extended the class certification deadlines in response to the Sixth Circuit's denial of Former Governor Richard Snyder's and Former Treasurer Andy Dillon's Petition for Rehearing *En Banc*. On July 17, 2020, the Court issued an Order Regarding Matters Addressed During the July 15, 2020 Video Conference (ECF No. 1209). The Order adopted a revised schedule for the Governmental Defendants' responses to the Motion for Class Certification. As was discussed during the Video Conference, the stay of expert depositions necessarily affects all deadlines for all Defendants, and the same schedule should apply to all Defendants.

In accordance with the deadlines set forth in the Order, and based on the Parties' understanding of the Court's comments during the July 15, 2020 Video

Conference, the Parties request that the Court enter the following deadlines for class certification issues beginning from July 22, 2020, the date the Sixth Circuit Mandate was issued.

1. Governor Whitmer and former Governor Snyder must file an answer by August 12, 2020.
2. Former Treasurer Dillon must file a memorandum on whether he should be dismissed in *Waid* for the same reasons he was dismissed in *Brown* and *Marble* by Friday, August 12, 2020.
3. Putative Class Plaintiffs and Interim Co-Liaison Counsel may file a response to former Treasurer Dillon's memorandum within seven (7) days after it is filed.
4. State Defendants, including MDEQ Defendants, will have seventy (70) days after filing of the State Defendants' answer to conduct written and deposition discovery, including home inspections.
5. The Court stayed the depositions of Putative Class Plaintiffs' experts who submitted reports in support of the motion for class certification for sixty-five (65) days (from July 15, 2020) until September 18, 2020.
6. Depositions of the fourteen (14) experts identified by the class plaintiffs in their class certification motion will take place over a sixty-day period from September 21 until November 17, 2020.

7. The Defendants must file oppositions and any supporting Rule 26(a)(2) expert reports and disclosures to the Motion for Class Certification by December 17, 2020. The Parties submit that 30 days from the end of the period for expert depositions is an appropriate amount of time for Defendants' experts to review the depositions and address the testimony in their reports and for Defendants to incorporate both the deposition testimony and the expert reports into their oppositions to the Motion for Class Certification.
8. Any reply in support of the Motion for Class Certification shall be filed by February 15, 2021, sixty (60) days from the deadline for filing oppositions to the Motion for Class Certification and supporting expert reports.
9. Within two (2) weeks from the filing of the reply, the Defendants shall notify the Court if an evidentiary hearing is requested.
10. A hearing on Putative Class Plaintiffs' Motion for Class Certification with respect to all Defendants shall be set forth following the filing of the reply in support of the Motion for Class Certification.

Also at the Video Conference, other decisions were made regarding the scheduling, timing, and conduct of the expert depositions, and some of those decisions were memorialized in the Order of July 17, 2020. In accordance with the

Order, and based on the Parties' participation in the July 15, 2020 Video Conference, the Parties have conferred and propose the following:

1. The Defendants will take the deposition of each of Putative Class Plaintiffs' experts over two days. The parties shall use best efforts, if possible, to schedule expert depositions in two consecutive days and to avoid the double-tracking of expert depositions if possible. The schedules of all counsel and experts participating in the depositions must also be considered.
2. The Putative Class Plaintiffs will provide the Defendants with two (2) sets of consecutive dates on which each expert is available for a deposition during the period from September 21, 2020 to November 17, 2020. The dates on which experts are available to be deposed should be provided no later than August 14, 2020.
3. The Putative Class Plaintiffs' experts will provide their complete file no later than ten (10) days in advance of the deposition. *See* ECF 1162 at p. 58 (Sec. VII(2)). The Parties note that there are open issues with respect to the Putative Class Plaintiffs' expert disclosures under Rule 26(a)(2)(B), including the Defendants' need to obtain material such as electronic modeling and related data in sufficient time to evaluate the data and resolve formatting and other technical issues before the experts' depositions. The Defendants intend to

work with Class Plaintiffs' counsel to resolve these issues but may need to seek the Court's assistance if no agreement is reached.

4. The Defendants' time to examine each Putative Class Plaintiff expert over the two consecutive days will be allocated in accordance with the Fourth Amended Case Management Order.
5. The Defendants will decide among themselves the order of examination for each of the Putative Class Plaintiffs' experts' depositions.
6. Interim Co-Liaison Counsel will have one hour to examine each Putative Class Plaintiff expert.

Dated: July 23, 2020

Respectfully submitted,

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